

### **REMARKS / ARGUMENTS**

The action by the Examiner of this application, together with the cited references, has been given careful consideration. Following such consideration, claim 17 has been canceled, claims 2-9, 11-16, and 19-22 remain unchanged, and claims 1, 10, and 18 have been amended to define more clearly the patentable invention Applicants believe is disclosed herein. It is respectfully requested that the Examiner reconsider the claims in their present form, together with the following comments, and allow the application.

As the Examiner well knows, the present invention is generally directed to a container for holding items to be microbially deactivated in a reprocessor. Conventional containers for holding items to be microbially deactivated include a base portion and a lid portion. Typically, a resilient seal element is disposed such that when the base portion is engaged with the lid portion, the seal element contacts both the base and the lid thereby forming a seal. A conventional seal formed in this manner separates a cavity defined within a conventional container from the external surface of the container.

The present invention provides a container for holding items to be microbially deactivated in a reprocessor. The container includes a tray, i.e., a base, and a lid. A first rigid seal element is defined on the base and a second rigid seal element is defined on the lid. When the lid is attached to the tray, the rigid seal elements of the present invention are spaced apart such that they define a U-shaped channel that extends continuously around the container. A convoluted path is defined between the cavity and the exterior of the container through the U-shaped channel. The U-shaped channel is dimensioned such that a deactivating agent can flow therein. In one embodiment, a passage (identified by reference number 354, and best seen in FIG. 8) is defined within a side wall of the tray. The passage is fluidly connected at one end to a source for deactivation fluid. The passage is connected at another end to the U-shaped channel. In this respect, the passage within the side wall of the tray is configured to direct deactivation fluid to the continuous, U-shaped channel defined between the tray and the lid such that the U-shaped channel can be microbially deactivated.

It is respectfully submitted that none of the cited references teaches, suggests, or shows a container for holding items to be microbially deactivated in a reprocessor as presently set forth in the claims, or the advantages thereof.

In response to the Examiner's rejections, claims 1 and 10 have been amended to include the limitations of claim 17. Applicants respectfully submit that the present amendments require no further search by the Examiner. Claim 1 has been amended to indicate that a fluid passage extends through a side wall and communicates with a convoluted path to direct a microbial deactivation fluid into the path. Claim 10 has been amended to indicate that a fluid passage extends through a wall and communicates with a U-shaped channel to direct a microbial deactivation fluid into the U-shaped channel. The claimed structure allows for a deactivating agent to flow into the U-shaped channel defined between the container and the lid. In this regard, the deactivation fluid is conducted from a source for deactivation fluid through a passage defined within a wall of the container to the convoluted, serpentine passage defined between the seal elements of the container.

The claims stand rejected under 35 U.S.C. 102(b) as being anticipated by at least one of U.S. Patent Nos. 4,783,321 and 4,919,888, both to Spence.

With reference to claim 17, the Examiner states that "the U-shaped channel comprises a fluid passage." Applicants respectfully submit that the fluid passage and the U-shaped channel, as claimed, are separate and distinguishable structures. In this regard, the fluid passage extends through a side wall and communicates with the U-shaped channel. The fluid passage is for directing a microbial deactivation fluid *into* the U-shaped channel.

None of the cited references teaches, suggests, or shows the present invention as defined by the claims. None of the cited references teaches, suggests, or shows a fluid passage extending through a wall in the tray communicating with said U-shaped channel, or said convoluted path, to direct a microbial deactivation fluid into said U-shaped channel, or path.

The cited references made of record and not relied upon have also been reviewed: It is respectfully submitted that none of these additional references teaches or suggests the applicants' invention as defined by the present claims.

Application No. 10/633,348  
Response dated October 3, 2006  
OUTSTANDING OFFICE ACTION dated July 18, 2006

In view of the foregoing, it is respectfully submitted that the present application is now in proper condition for allowance. If the Examiner believes there are any further matters that need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. ST8726US.

Respectfully submitted,

Date: October 3, 2006

  
Mark Kusner, Reg. No. 31,115

KUSNER & JAFFE  
Highland Place – Suite 310  
6151 Wilson Mills Road  
Highland Heights, Ohio 44143  
(440) 684-1090 (phone)  
(440) 684-1095 (fax)

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 3, 2006

  
Laura K. Cahill